

**KYES, Fireweed Communications, Alaska Broadcast Service, and Section 307 (f)  
of the Communications Act**

Section 307 (f) states:

(f) Areas in Alaska without access to over the air broadcasts

Notwithstanding any other provision of law, (1) any holder of a broadcast license may broadcast to an area of Alaska that otherwise does not have access to over the air broadcasts via translator, microwave, or other alternative signal delivery even if another holder of a broadcast license begins broadcasting to such area, (2) any holder of a broadcast license who has broadcast to an area of Alaska that did not have access to over the air broadcasts via translator, microwave, or other alternative signal delivery may continue providing such service even if another holder of a broadcast license begins broadcasting to such area, and shall not be fined or subject to any other penalty, forfeiture, or revocation related to providing such service including any fine, penalty, forfeiture, or revocation for continuing to operate notwithstanding orders to the contrary.

307(f) has two components.

The most restrictive reading of 307(f)(1) holds that a broadcaster to an otherwise unserved areas may continue to broadcast, even if there is another licensee who claims interference or some kind of spectrum priority. This clause limits the holder's special right to its specific zone of broadcast to the unserved area.

307(f)(2) states, a broadcaster who had broadcast to any unserved area in the past may continue to provide "such service" and the broadcaster is exempt from any claim of interference or spectrum priority and it is exempt from any or all of the enforcement measures available to FCC to enforce its rules and regulations.

In crucial respects, (2) is broader than (1). Because the exemption is from all penalties "related to providing such service" it exempts a service provider who only incidentally is providing service to the unserved area, because its service to the served areas is "related". In other words, you can't transmit to the wider area unless you are broadcasting to the narrower area as well. And (2) is broader still, because it not only overrides other claims based on licensing, but it disables FCC regulation altogether.

Fireweed claims is that, under 307(f)(1) and 307 (f) (2), it currently and in the past has served unserved areas, and that service, in a sense, is untouchable.

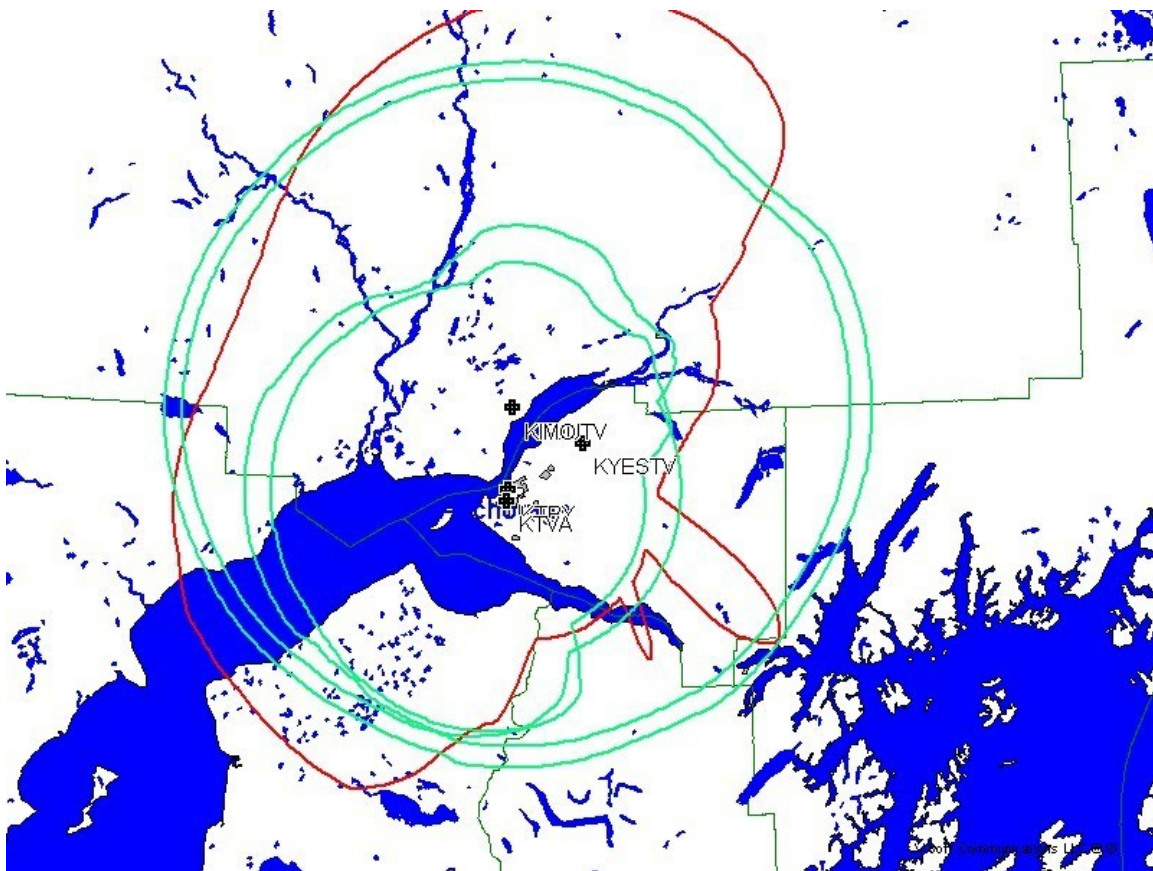
As Fireweed can establish that it previously served these unserved areas then the entire "related" operation stands exempt from later arriving spectrum claimants, even if licensed, and your service may continue unabated regardless of any rule or regulation of the FCC that you may be violating, because all its enforcement tools are barred.

It is the letter and spirit of 307 (f) (2) that assures Fireweed may continue important service without unwarranted FCC interference, no matter the purported reason.

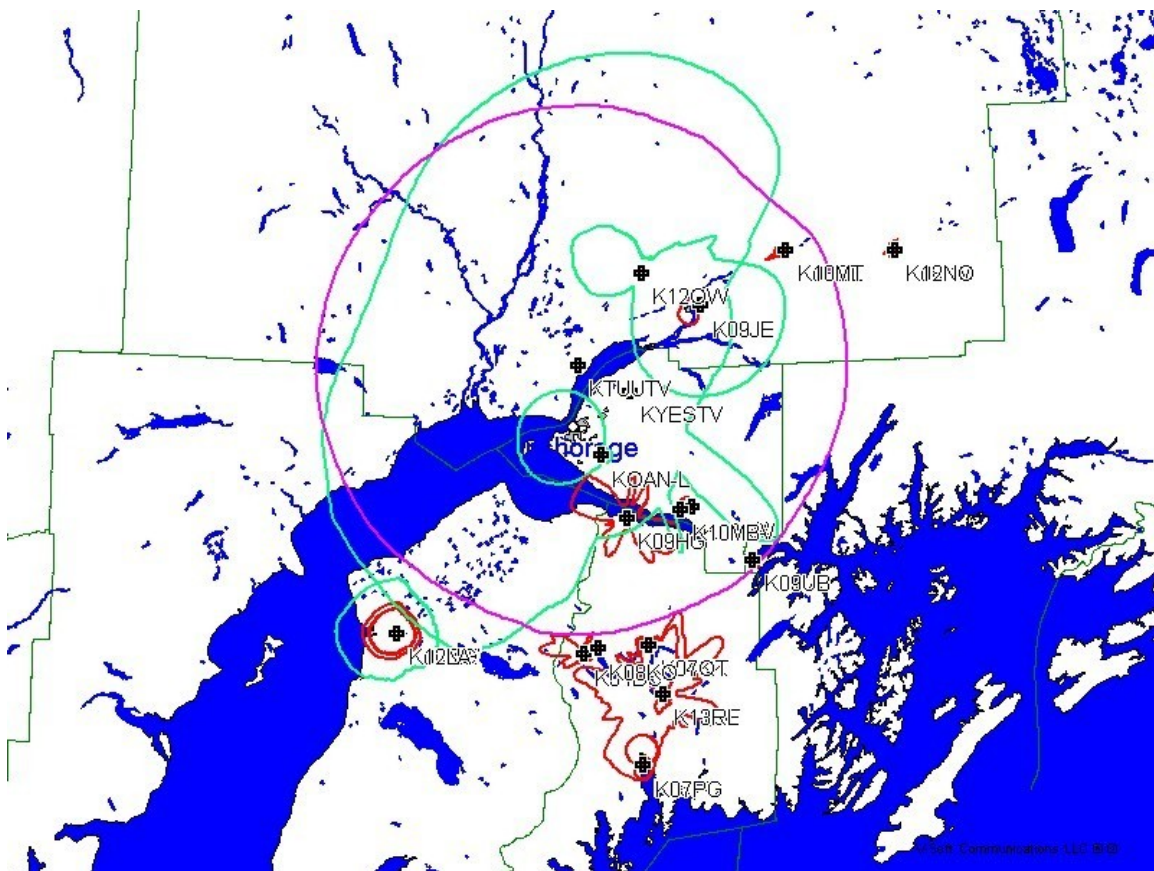
### KYES 307 (f) QUALIFICATION

In order for a licensee to qualify under 307 (f) it must "... broadcast to an area of Alaska that did not have access to over the air broadcasts via translator, microwave, or other alternative signal delivery." KYES has and continues to do so. Below find the attached coverage maps showing analog service for (1) All full service television stations in the Anchorage area, (2) all UHF translators in the same area, and (3) all VHF translators in the same area. The maps show protected contours for the relevant facilities.

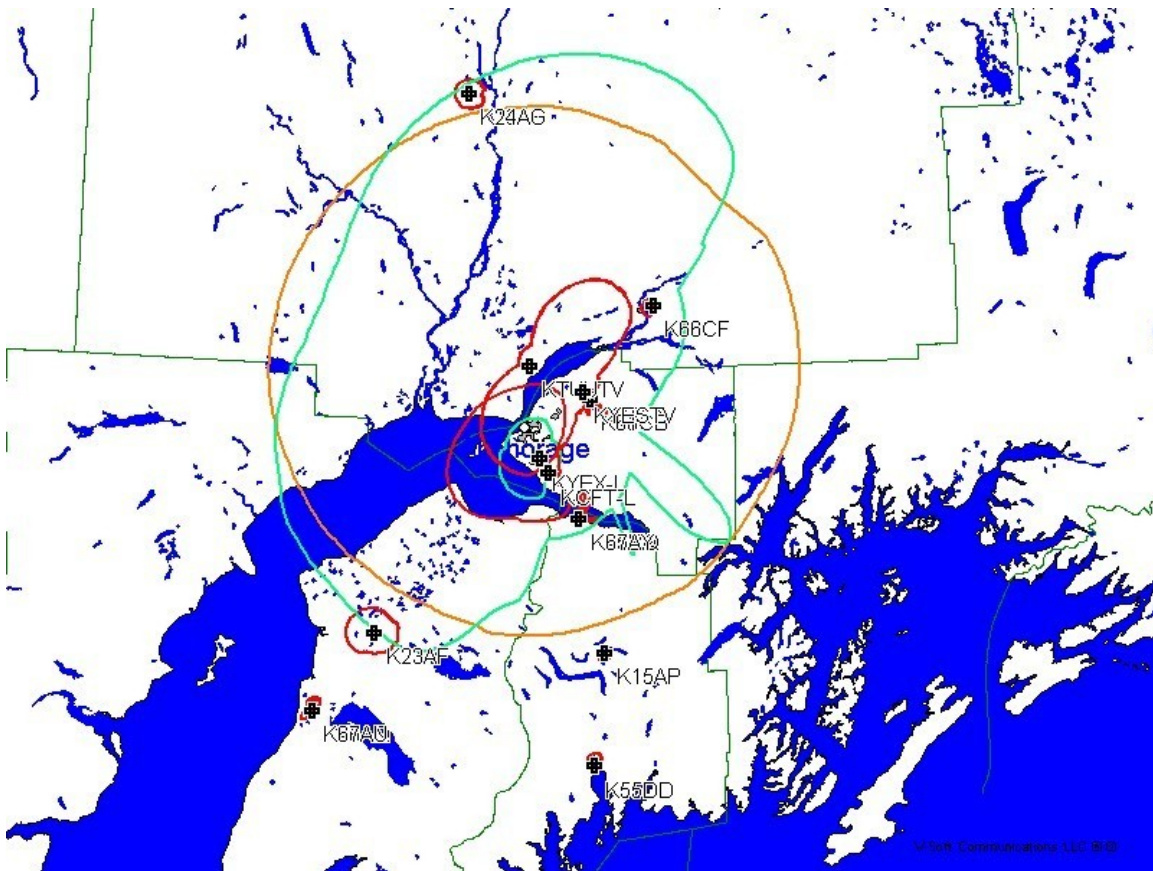
#### FULL SERVICE PROTECTED CONTOURS KYES CONTOUR IS IN RED



VHF TRANSLATORS SERVICE PROTECTED CONTOURS  
FIREWEED CONTOURS ARE GREEN



UHF TRANSLATORS SERVICE PROTECTED CONTOURS  
FIREWEED CONTOURS ARE GREEN



**It is clear from the maps that KYES has coverage extending beyond that of any other television station, or translator.**

The language on of 307 (f) does not address satellite delivery of television directly. Even if 307(f) is construed to include direct to home satellite as “other alternative signal delivery”, Fireweed would still qualify under the law. KYES began broadcasting as shown, at 100 kW ERP, in 1995. Direct to home satellite was not available in Alaska at that time. A 1999 supporting document to that effect is attached, in which it is stated, “The EchoStar V satellite will also provide Alaska and Hawaii with an alternative to cable for the first time ever”. Direct to home satellite was not available in Alaska until

after 1999<sup>9</sup>. The problem of DBS services not serving Alaska was well known to the Commission<sup>10</sup>.

### Microwave

No microwave video service has existed within the KYES service area since it began broadcasting.

### Alternative

Another possible relevance of the term "alternative" might be cable TV. Although cable television is generally available in the urbanized area of the Municipality of Anchorage, and the communities of Palmer, and Wasilla, it is far from pervasive even to this date. In 1995 much of Anchorage did not have access to cable.

### OTHER ALASKA EXCEPTIONS

Separately from 307 (f), Commission has determined Alaska broadcasters have a special situation warranting exception to FCC rules. In Wrangel 9 46 RR 2<sup>nd</sup> 1329 the Commission granted waivers and said, "The State of Alaska contains numerous small, isolated, and remote villages... As a result, television broadcast signals are not readily available off-the-air..." In Evangelistic Missionary Fellowship, 46 RR 1500 the Commission said, "We believe.. the situation in Alaskan markets is unique and that comparison to any other mainland broadcast market is not possible."

Fireweed, doing its utmost to provide a quality video over-the-air service to Alaska must seek extraordinary exemption to various rules and policies of the Commission in order to be economically viable. The Commission is not only allowed, but is directed via 47 USC 307(f) to recognize a special status for Fireweed. At the time KYES first began telecasting at 100 kW ERP in June 1995 it covered area not covered by any other television broadcast signal, satellite, or translator. A coverage map of KYES analog, and all full service TV stations is provided, and another showing KYES and all translator TV stations. Please note significant unique, unduplicated rural coverage area to the north and south not covered by any other signal<sup>11</sup>.

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<sup>9</sup>For example, see article from the Cambridge Telcom Report, August 16, 1999. " **The EchoStar V satellite will also provide Alaska and Hawaii with an alternative to cable for the first time ever.**"

<sup>10</sup>For example, see Paragraph 8, Memorandum Opinion and Order Released: April 27, 1998, File No.70-SAT-MP/ML-98, Satellite and Radiocommunication Division, International Bureau, in which the Commission grants a waiver of its DBS rules in order to promote service to Alaska and Hawaii.

<sup>11</sup> This request when granted and constructed will reduce coverage to the north, much of which is sole service. KYES operates a UHF station on Mount Susitna which provides service to that area, and a few others that are missed by existing signals. We are investigating promptly converting that equipment and its signal to digital, and operating a temporary analog transmitter